



1 2 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bozicevic, Field & Francis LLP
(Rigel Pharmaceuticals, Inc.)
1900 University Ave, Suite 200
East Palo Alto CA 94303

In Re Application of
ROSSI
Application No.: 10/524,233
PCT No.: PCT/US03/24650
Int. Filing Date: 06 August 2003
Priority Date: 09 August 2002
Attorney Docket No.: RIBL-047
For: METHODS OF IDENTIFYING COMPOUNDS
THAT MODULATE IgG MEDIATED MAST CELL
ACTIVATION

DECISION

This is a decision on applicant's "Petition to Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 20 July 2007 and refiled on 28 April 2008.

On 06 August 2003, applicant filed international application No. PCT/US03/24650 which claimed a priority date of 09 August 2002 and which designated the United States. Thereafter, on 09 February 2005, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 25 May 2005, indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required.

On 29 August 2005, applicant responded with an executed declaration. On 25 January 2006, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 August 2005.

On 20 July 2007 and 28 April 2008, applicant filed a Request for a Corrected Filing Receipt to correct the filing date to 25 August 2005.

DISCUSSION

Section MPEP 1893.03(b) states "An international application designating the U.S. has two stage (international and national) with the filing date being the same in both stages. Often the entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application." *See* 35 U.S.C. 363 and PCT Treaty Article 11(3) (which provides that an international filing date shall be considered the actual filing date in each designated State).

It is further stated in section 1893.03(b) that the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicates the date of receipt of

the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements and it indicates the date of completion of all 35 U.S.C. 371 requirements. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.

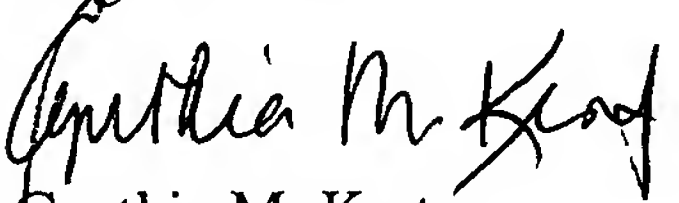
The Notification of Missing Requirements advised applicant of the deficiency-a declaration in compliance with 37 CFR 1.497(a) and (b) was required.¹ Applicants responded to the Notification of Missing Requirements, on 29 August 2005 with such declaration. Thus, on 29 August 2005, all of the 35 U.S.C. 371 requirements were complete. The 25 January 2006 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 August 2005, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements.

The Notification of Acceptance mailed on 25 January 2006 correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 August 2005 and remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 January 2006 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 29 August 2005.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

¹As stated in MPEP 1893.01(d), applicants entering the national stage in the U.S. are required to file an oath or declaration, in compliance with 37 CFR 1.497(a). See 35 U.S.C. 371(a)(2) and 37 CFR 1.495(c).